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| EXAMINER |
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PAYER, HWEI SIU CHOU

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| ART UNIT | PAPER NUMBER |
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3724

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02/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/020,739

Applicant(s)

MILLER, MICHAEL D.

Examiner

Hwei-Siu C. Payer

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

Detailed Action

The amendment filed on 1-10-2008 has been entered except for the changes to the specification because paragraphs [0038] and [0040] are not found in the original specification. The changes should be made in reference to page numbers.

Drawings Objection

The drawings filed on 1-10-2008 are objected to because:

- (1) The lines and numbers are not well defined and uniformly thick (i.e. poor line quality).
- (2) In Fig.3, reference elements "11A" and "14" have been used to designate the same element. Further, "11A" has not been described in the specification.
- (3) In Fig.9, reference numeral "45" has not been described in the specification.
- (4) In Fig.9, the two vectors 44,45 do not appear to define an angle of curvature that is less than 90 degrees as in claim 20 or less than 47 degrees as in claim 21.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Objection to the Specification

The disclosure is objected to because of the following informalities:

- (1) On page 17, line 8, "arcual" should read --arcuate--.
- (2) On page 19, line 11, "31" should read --61--.

Appropriate correction is required.

Claims Objection

Claims 19-21 are objected to because of the following informalities:

- (1) In claim 19, line 30, "the its length" should read --its length--.
- (2) In claim 19, line 40, "arcual" should read --arcuate--.
- (3) In claim 19, line 43, "may" should read --can--.

(4) In claim 19, line 44, "outside edge" and "outer tine" should read --outer edge-- and --outer tines--, respectively.

(5) In claim 19, line 47, "outside edge" and "the curved outer line" should read --outer edge-- and ---the one outer tine--, respectively.

(6) In claim 19, line 47, "a user may" should read --the user can--.

(7) In claims 20 and 21, line 2, "outside" (both occurrences) and "head portion" should read --outer-- and --fork head--, respectively.

(8) In claims 20 and 21, line 3, "arcual" and "outside" should read --arcuate-- and --outer--, respectively.

(9) In claims 20 and 21, line 4, "the head portion" should read --the fork head--.

(10) In claims 20 and 21, lines 4-5, "the tine" should read --the outer tine--.

Appropriate correction is required.

Claims Rejection - 35 U.S.C. 112, first paragraph

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 20 and 21 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

(1) In claim 20, the limitation of "an angle of curvature that is greater than 30 degrees and less than 90 degrees" constitutes new matter because this range was not described in the original specification or shown in the original drawings.

(2) In claim 21, the limitation of "an angle of curvature that is greater than 32 degrees and less than 47 degrees" constitutes new matter because this range was not described in the original specification or shown in the original drawings.

Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox (U.S. Patent No. 9,687) in view of Centa (U.S. Patent No. Des. 203,072).

Cox shows a universal fork substantially as claimed except it lacks finger platforms.

Centa shows a fork having finger platforms formed on respective sides of the fork handle shaft for receiving finger pressure and thus making the fork handle more ergonomic.

Therefore, it would have been obvious to one skilled in the art at the time this invention was made to modify Cox to provide an alternative handle structure to Cox's fork, such as the one disclosed by Centa, in order to provide amore ergonomic grip for a user.

It is noted, in the above modified Cox, only the bottom side (not both the bottom and top sides) of the handle shaft, at where the finger platforms are, protrudes outwardly. However, to have the top side of Cox's handle shaft also protrude outwardly would have been obvious to one skilled in the art, since a person of ordinary skill would immediate envisage that having the outwardly protruded top side increases the surface the finger platforms and thus aid in more support for a user's finger.

Regarding claims 20 and 21, since Cox shows outer tines having substantially the same claimed curved outer edges, it is deemed that Cox's outer tines edges have a curvature that is within the claimed range.

Remarks

Applicant's arguments with respect to claims 19-21 have been considered but are moot in view of the new ground(s) of rejection.

Action Made Final

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for official communications and 571-273-4511 for proposed amendments.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

H Payer
February 27, 2008

/Hwei-Siu C. Payer/
Primary Examiner, Art Unit 3724